



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2023-003154

First-tier Tribunal Nos: EA/51108/2022  
IA/07095/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 27<sup>th</sup> of March 2024

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**  
**DEPUTY UPPER TRIBUNAL JUDGE DAVEY**

**Between**

**HASSAN RAMADHAN MZEE DAHOMA**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr N Sadeghi, counsel, instructed by Black Stone Solicitors  
For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

**Heard at Field House on 9 October 2023**

**DECISION AND REASONS**

1. The Appellant appealed against First-tier Tribunal Judge Raymond's decision, promulgated on 28 June 2023, to dismiss the Appellant's appeal against a decision of the Respondent refusing him leave to remain on human rights grounds.
2. In extreme summary outline, the Appellant said that he was entitled to leave to remain because he had had a long-lasting relationship with an EEA national and although that relationship was now over it had lasted long enough for him to have established a right to remain. The Respondent did not agree.
3. It was said that Judge Raymond had made numerous errors of law and analysed the evidence in a manner which gave rise to procedural unfairness.

4. In addition, it was said that the Judge had erred in law in approaching this matter as if there was said to have been a sham marriage whereas in fact the Respondent had never raised the issue of a marriage of convenience or a sham marriage.
5. It is clear that the issue being addressed by the parties before the Judge was the question of whether or not there was a durable relationship between the Appellant and his ex-partner and particularly whether or not it had continued after 2015, when the matter had been addressed by First-tier Tribunal Judge Higgins in relation to a different application made by this Appellant, and continued thereafter to 2020.
6. It is fair to say that whilst the Judge cited references to the case of **Sadovska** [2017] UKSC 54 and **Papajorgji** [2012] UKUT 38, they had no direct relevance to the durability of the relationship.
7. The Judge clearly took the view that, either from the outset of the relationship or, certainly, since 2015, there had been no durable relationship but a convenient arrangement to enable the Appellant to show, wrongly, that he was in a durable relationship after 2015.
8. The decision of Judge Raymond shows expressly that much of the material put before him was considered. There is no good reason to doubt that he considered all of it. The Judge particularly considered the statement of the Appellant, documentary evidence, photographic evidence and, with the exception of a tenancy agreement, it is not said that he did not take into account the evidence that was put before him.
9. The Judge's use of the words "durable relationship of convenience" is undoubtedly odd. A marriage can be a marriage of convenience but still a marriage whereas a relationship that has broken down is no longer a durable relationship. However, it is clear on a fair reading of the decision as a whole that the Judge did not accept that the Appellant and his then partner had been in an ongoing relationship which has continued after 2015.
10. Before the Judge there was no evidence from the Appellant's ex-partner, Ms Dobрева, and only limited evidence about the extent to which they had ever cohabited in a relationship akin to marriage.
11. The Judge was evidently aware of messages passing between the Appellant and his ex-partner. Nevertheless, there was no doubt that the relationship had broken down and that the Appellant had sought an "Amos direction" to obtain evidence of her exercising treaty rights as an EU national in the United Kingdom.
12. Starting at paragraph 18 of the Decision and Reasons the Judge set out evidence that had been received particularly relating to the period in 2015 and thereafter. The Judge concluded that, contrary to the arguments being made, the relationship with Ms Dobрева had ended a long time before December 2021.
13. The Judge took into account the previous decision of Judge Higgins and did not go behind it, (see, for example, paragraph 33 of the Decision and Reasons, and said:

"... I find that the considerable paucity of the evidence for the joint life of the couple since 2015, and whatever may have been any degree of affection that originally existed between the appellant and Ms Debrova (sic), points to their relationship having been entered into with the predominant purpose of regularizing the presence of the appellant in the European Union and the UK. I find that the lack of any evidence from Ms Dobрева in this

appeal, against the backdrop of her having been a persuasive witness before the previous Judge in 2015, reinforces such a conclusion. I therefore conclude in the light of the totality of the evidence in this appeal that there was a durable relationship of convenience between the appellant and Ms Dobreva”.

14. He concluded that the relationship after 2015 was not “as a durable partner within the meaning of Appendix EU”.
15. In these circumstances the Judge was entitled to give the weight he considered appropriate to the evidence and to reach the conclusion that he did.
16. The Appellant further complained that points were taken that were not put. A difficulty faced by Mr Sadeghi, who did not appear below, was the absence of a note of the evidence before the First-tier Tribunal. There was no agreement as to what had actually been canvassed by the Judge with the Appellant and the point could not be developed.
17. Complaint was made that insufficient weight had been given to Judge Higgins’ findings but it is clear that the Judge had regard to them and did not interfere with them but took his own view on the evidence as presented to him. Judge Higgins’ findings in 2015 were ultimately entirely a matter for him on the evidence that he received.
18. The difficulty faced by Mr Sadeghi is that ultimately he is complaining about the weight which the Judge gave to that past evidence which, short of a material omission or mistake of some kind in relation to appreciating the evidence, was not an error of law. It was for the Judge to make that decision and we did not accept that the Judge misunderstood the effects of the decision of Judge Higgins. Neither did the Judge fail to take it into account as it plainly was a starting point in the consideration of the facts relied upon.
19. The decision of First-tier Tribunal Judge Higgins in his decision dated 11 February 2015 was possibly affected by the fact that Ms Dobreva gave evidence as he says at paragraph 6 of the Decision and Reasons:

“The Appellant made a witness statement in support of his appeal, as did Ms Dobreva. I received oral evidence from the Appellant in the absence of Ms Dobreva and both of them were cross-examined”.
20. Judge Higgins continued at paragraph 7 that in addition to his and Ms Dobreva’s evidence the Appellant relied on letters which had been provided by two friends. Those letters were said to support the Appellant’s claims about the relationship and at paragraph 9 the Judge makes reference to Ms Dobreva telling him that the Appellant had been living with one of his two cousins in this country before he “moved in with her in March 2012”.
21. Judge Higgins concluded that:

“Ms Dobreva was an impressive witness. She was straightforward, clear and patently honest. She is a witness on whose evidence I feel that I can rely”.
22. It unsurprising therefore that the impact of her evidence was of importance to Judge Higgins in reaching his conclusions.
23. Ms Dobreva did not give oral evidence before First-tier Tribunal Judge Raymond.
24. Judge Raymond was plainly aware of the decision of Judge Higgins in February 2015 and considered it properly but he had more evidence to consider and did. We found that the Judge had not failed to give sufficient weight to the 2015

Tribunal decision but had lawfully considered it with the other evidence that he heard.

25. It cannot be said that Judge Higgins gave improper weight to the earlier findings.
26. Therefore, we concluded that there was no material error of law made by the Judge.

**NOTICE OF DECISION**

The appeal of the Appellant is dismissed. The original Tribunal decision stands.

**Jonathan Perkins**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**21 March 2023**